

Occupational Safety and Health Review Commission

§ 2203.2

(13) Data on the 10 active administrative appeals with the earliest filing dates pending before the agency as of September 30 of the preceding year, including the number of business days that have elapsed since the requests were originally received by the agency;

(14) The number of expedited review requests that are granted and denied, the average and median number of days for adjudicating expedited review requests, and the number adjudicated within the required 10 days;

(15) The number of fee waiver requests that are granted and denied, and the average and median number of days for adjudicating fee waiver determinations;

(16) The total amount of fees collected by the agency for processing requests;

(17) The number of full-time staff of the agency devoted to the processing of requests for records under this section; and

(18) The total amount expended by the agency for processing these requests.

(b) The FOIA Disclosure Officer shall annually, on or before February 1 of each year, prepare and submit to the Attorney General an annual report covering each of the categories of records to be maintained in accordance with paragraph (a) of this section, for the previous fiscal year. A copy of the report will be available for public inspection and copying at the OSHRC FOIA Reading Room, and a copy will be accessible through OSHRC's Web site at <http://www.oshrc.gov>.

[71 FR 56350, Sept. 27, 2006, as amended at 75 FR 41373, July 16, 2010]

APPENDIX A TO PART 2201—SCHEDULE OF FEES

Type of fee	Amount of fee
Threshold Amount (Amount below which fees will not be assessed).	\$10
Search and Review Hourly Fees:	
Clerical (GS-9 and below).	23
Professional (GS-10 through GS 14).	46
Managerial (GS-15 and above).	76
Duplication cost per page	0.25
Computer printout copying fee	0.40

Type of fee	Amount of fee
Searches of computerized records.	Actual cost to the Commission, but shall not exceed \$300 per hour, including machine time and the cost of the operator and clerical personnel.
Certification Fee	\$35 per authenticating affidavit or declaration. (Note: Search and review charges may be assessed in accordance with the rates listed above.)

PART 2202 [RESERVED]

PART 2203—REGULATIONS IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

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AUTHORITY: 29 U.S.C. 661(g); 5 U.S.C. 552b(d)(4); 5 U.S.C. 552b(g).

SOURCE: 50 FR 51679, Dec. 19, 1985, unless otherwise noted.

§ 2203.1 Purpose and scope.

This part applies to all meetings of the Occupational Safety and Health Review Commission. Its purpose is to implement the Government in the Sunshine Act, 5 U.S.C. 552b. The rules in this part are intended to open to public observation, to the extent practicable, the meetings of the Commission, while preserving the Commission's ability to fulfill its adjudicatory responsibilities and protecting the rights of individuals.

§ 2203.2 Definitions.

For the purposes of this part:

Expedited closing procedure means the simplified procedures described at 5 U.S.C. 552b(d)(4) for announcing and closing certain agency meetings.

General Counsel means the General Counsel of the Commission, or any other person designated by the General

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Counsel to carry out his responsibilities under this part.

Meeting means the deliberations of at least two Commissioners, where such deliberations determine or result in the joint conduct or disposition of “official Commission business.” A conference telephone call among the Commissioners is a *meeting* if it otherwise qualifies as a *meeting* under this paragraph. The term does not include:

(a) The deliberations required or permitted under §§ 2203.4(d) and 2203.5, e.g., a discussion of whether to open or close a meeting under this part;

(b) Business that is conducted by circulating written materials sequentially among the Commissioners for their consideration on an individual basis;

(c) A gathering at which the Chairman of the Commission seeks the advice of the other Commissioners on the carrying out of a function that has been vested in the Chairman, by statute or otherwise; or

(d) Informal discussions of the Commissioners that clarify issues and expose varying views but do not effectively predetermine official actions.

Official Commission business means matters that are the responsibility of the Commission acting as a collegial body, including the adjudication of litigated cases. The term does not include matters that are the responsibility of the Commission’s Chairman. See, e.g., 29 U.S.C. 661(e).

Regularly-scheduled meetings means meetings of the Commission that are held at 10:30 a.m. on Thursday of each week, except on legal holidays. The term includes regularly-scheduled meetings that have been rescheduled for another time or day.

[50 FR 51679, Dec. 19, 1985, as amended at 73 FR 56492, Sept. 29, 2008; 74 FR 63988, Dec. 7, 2009]

§ 2203.3 Public attendance at Commission meetings.

(a) *Policy.* Commissioners will not jointly conduct or dispose of official Commission business in a meeting unless it is conducted in accordance with this part. Because the Commission was created for the purpose of adjudicating litigated cases, it can be expected that most of its meetings will be closed to

the public. However, meetings that do not involve Commission adjudication or discussion of issues in cases before it will be open to the extent practicable. The public will not be allowed to participate in discussions during open meetings.

(b) *Grounds for closing meetings.* Except where the Commission finds that the public interest requires otherwise, all or part of a meeting may be closed to the public, and information about a meeting may be withheld from the public, where the Commission determines that the meeting, or part of the meeting, or information about the meeting, is likely to:

(1) Disclose matters that are:

(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and

(ii) In fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of title 5), provided that such statute

(i) Requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person that are privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to a fair trial or an impartial adjudication,